

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

CLAUDE HOLLAND,

Petitioner,
-against-

ORDER
13-CV-4989 (JG)

JOHN B. LEMPKE,

Respondent.

-----X
JOHN GLEESON, United States District Judge

On September 3, 2013, petitioner Claude Holland, currently incarcerated at Gowanda Correctional Facility, filed this *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his January 15, 1988 Queens County conviction. As set forth below, I cannot consider the instant petition and transfer it to the United States Court of Appeals for the Second Circuit.

Petitioner has previously challenged this conviction. *See Holland v. Irvin*, No. 97-CV-3889 (JG) (petition denied Sept. 22, 1998). On October 2, 2002, the United States Court of Appeals for the Second Circuit affirmed my decision denying petitioner's § 2254 petition. *See Holland v. Irvin*, No. 98 Civ 3728, 2002 WL 1990774 (2d Cir. Oct. 2, 2002). The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") "allocates jurisdiction to the courts of appeals, not the district courts, to authorize successive habeas motions or applications." *Torres v. Senkowski*, 316 F.3d 147, 151 (2d Cir. 2003); 28 U.S.C. § 2244(b)(3)(A). Therefore, petitioner must move in the United States Court of Appeals for the Second Circuit for permission to pursue this successive petition for habeas corpus relief. 28 U.S.C. § 2244(b)(3)(A).

Accordingly, in the interest of justice, the Clerk of Court shall transfer this petition to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631. *Torres*, 316 F.3d at 151-52 (citing *Liriano v. United States*, 95 F.3d 119 (2d Cir. 1996) (*per curiam*)). This order closes this case. If the Circuit authorizes petitioner to proceed in this matter, petitioner shall move to reopen under this docket number.

So ordered.

JOHN GLEESON, U.S.D.J.

Dated: September 11, 2013
Brooklyn, New York